

**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 34  
CEW

9/12/00

UNITED STATES PATENT AND TRADEMARK OFFICE

---

Trademark Trial and Appeal Board

---

Nina Ricci, S.A.R.L.  
v.  
Nicci

---

Opposition No. 96,361  
to Application No. 74/450,385  
filed on October 21, 1993

---

William S. Frommer and Marilyn Matthes Brogan of Frommer,  
Lawrence & Haug for opposer.

Fred Sharifi, President of Nicci, *pro se* for applicant.

---

Before Hanak, Walters and Chapman, Administrative Trademark  
Judges.

Opinion by Walters, Administrative Trademark Judge:

Nina Ricci S.A.R.L. filed its opposition to the  
application of Nicci, a California Corporation, to register  
the mark shown below for "men's and women's clothing,  
namely, shirts, skirts, pants, jackets, suits, vests,  
dresses and shorts" in International Class 25.<sup>1</sup>

---

<sup>1</sup> Application Serial No. 74/450,385, filed October 21, 1993, based upon  
use of the mark in commerce, alleging dates of first use and first use  
in commerce as of September 25, 1993.

nicci

As grounds for opposition, opposer asserts that applicant's mark, when applied to applicant's goods so resembles opposer's previously used trade name NINA RICCI and previously used and registered marks NINA RICCI and SIGNORICCI, for the goods indicated below, as to be likely to cause confusion, under Section 2(d) of the Trademark Act.

**NINA RICCI**

For "outer garments, namely, gowns, dresses, skirts, blouses, slacks, coats and raincoats," in International Class 25.<sup>2</sup>

For "women's hosiery, lingerie, brassieres, and girdles; shoes, hats, scarves and ties," in International Class 25.<sup>3</sup>

---

<sup>2</sup> Registration No. 1,751,360, issued February 9, 1993. [Sections 8 and 15 affidavits accepted and acknowledged, respectively.]

<sup>3</sup> Registration No. 923,259, issued November 2, 1971. The registration includes the statement "Nina Ricci is the name of a founder of the applicant, now deceased. [Renewed for a term of ten years from November 2, 1991; Sections 8 and 15 affidavits accepted and acknowledged, respectively.]

For "eyeglasses and sunglasses," in International Class 9; "diamonds and jewelry of precious metals and imitation jewelry, namely, necklaces, bracelets, earrings; and watches," in International Class 14; "articles of skins, namely, valises, record cases for keeping files and written records, suitcases, handbags, portfolios, umbrellas," in International Class 18; "wash cloths and wash gloves," in International Class 24; "women's hosiery, bathrobes, lingerie, brassieres, girdles, shoes, hats, scarves and ties," in International Class 25.<sup>4</sup>

### **SIGNORICCI**

For "ties, neckwear, and handkerchiefs," in International Class 25.<sup>5</sup>

Applicant, in its answer, admitted opposer's paragraphs 1 - 4 and 10 of its notice of opposition, namely, opposer's statements regarding its ownership and use of the above-identified trade name and trademarks, and the registrations therefor; that opposer has spent substantial sums of money publicizing and advertising its NINA RICCI trade name and trademarks in connection with high quality goods, and thus, NINA RICCI is strongly associated with those goods and has a strong reputation; and that opposer's use of its NINA RICCI marks predates

---

<sup>4</sup> Registration No. 1,126,345, issued October 30, 1979. [Renewal application filed. Sections 8 and 15 affidavits accepted and acknowledged, respectively.]

<sup>5</sup> Registration No. 835,987, issued September 26, 1967. [Renewed for a period of twenty years from September 26, 1987; Sections 8 and 15 affidavits accepted and acknowledged, respectively.]

opposer's use of its mark. Applicant denied the remaining allegations of the claim.

*The Record*

The record consists of the pleadings; the file of the involved application; certified status and title copies of opposer's pleaded registrations, made of record by opposer's notice of reliance; and the testimony deposition on written questions by opposer of Pierre Hemar, opposer's Chief Executive Officer. Applicant did not file any evidence in this case. Only opposer filed a brief, as amended, on the case and an oral hearing was not requested.

*The Parties*

Mr. Hemar testified that opposer is a fashion house that manufactures and sells a wide variety of products, including, perfumes, cosmetics, clothing and accessories; that NINA RICCI has been, and continues to be, used as a trade name and as a trademark on its products in the United States; and that SIGNORICCI is used as a trademark on apparel in the United States. Applicant admitted that opposer's NINA RICCI mark is used in connection with high quality goods and that it has a strong reputation. There is no evidence in the record regarding applicant.

*Analysis*

Inasmuch as applicant has admitted opposer's priority and certified copies of opposer's registrations are of record, there is no issue with respect to opposer's priority. *King Candy Co., Inc. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108 (CCPA 1974).

Our determination of likelihood of confusion under Section 2(d) must be based on an analysis of all of the probative facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue. *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Key considerations in this case are the similarities between the marks and the similarities between the goods. *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976); and *In re Azteca Restaurant Enterprises, Inc.*, 50 USPQ2d 1209 (TTAB 1999) and the cases cited therein.

With respect to the goods of the parties, the question of likelihood of confusion must be determined based on an analysis of the mark as applied to the goods identified in applicant's application vis-à-vis the goods identified in the registrations, rather than what the evidence shows the goods to be. *Canadian Imperial Bank v. Wells Fargo Bank*, 811 F.2d 1490, 1 USPQ2d 1813, 1815 (Fed. Cir. 1987). *See*

*also, Octocom Systems, Inc. v. Houston Computer Services, Inc.*, 918 F.2d 937, 16 USPQ2d 1783 (Fed. Cir. 1992); and *The Chicago Corp. v. North American Chicago Corp.*, 20 USPQ2d 1715 (TTAB 1991).

There is a substantial overlap in the goods identified in the application and in opposer's Registration No. 1,751,360 for the mark NINA RICCI. Applicant's goods identified as "shirts, skirts, pants and dresses" are essentially identical to the goods identified as "dresses, skirts, blouses and slacks," and applicant's "jackets" are closely related to opposer's "coats and raincoats" identified in the same registration. Thus, we conclude that the applicant's goods are either identical or closely related to opposer's goods identified in Registration No. 1,751,360.

Although both parties indicate that opposer's goods sold under its marks are of a higher quality than applicant's products sold under its mark, both opposer's and applicant's identifications of goods are broadly worded, without any limitations as to the nature of the goods, the channels of trade or the classes of purchasers. Thus, we must presume that the goods of applicant and opposer encompass the complete spectrum of qualities of the identified goods; and that these goods are sold in all of

the normal channels of trade to all of the usual purchasers for goods of the type identified. See *Canadian Imperial Bank v. Wells Fargo, supra*. In other words, we conclude that, with regard to opposer's Registration No. 1,751,360, the parties' goods are the same and closely related, and the channels of trade and class of purchasers are the same.

Turning to the marks, applicant's mark is the word NICCI with minimal stylization. Considering opposer's NINA RICCI mark, NICCI rhymes with the second word in opposer's mark, RICCI, and begins with the same letter as the first word in opposer's mark, NINA. Considered in their entirety, we conclude that, in view of these characteristics, applicant's mark, NICCI, is so similar in commercial impression to opposer's mark, NINA RICCI, that prospective purchasers are likely to believe that NICCI is a line of products sponsored by NINA RICCI when used on the same, similar or related goods. This is particularly true when we consider that, due to the consuming public's fallibility of memory, the emphasis is on the likely recollection of the average customer, who normally retains a general rather than a specific impression of trademarks. *Spoons Restaurants, Inc. v. Morrison, Inc.*, 23 USPQ2d 1735 (TTAB 1991), *aff'd*. No. 92-1086 (Fed. Cir. June 5, 1992); and *In re Steury Corporation*, 189 USPQ 353 (TTAB 1975).

In conclusion, in view of the substantial similarity in the commercial impressions of applicant's stylized mark, NICCI, and opposer's mark, NINA RICCI, in Registration No. 1,751,360, their contemporaneous use on the same and closely related goods involved herein is likely to cause confusion as to the source or sponsorship of such goods. In view thereof, it is unnecessary for us to consider the issue of likelihood of confusion with respect to opposer's other pleaded registrations.

*Decision:* The opposition is sustained.

E. W. Hanak

C. E. Walters

B. A. Chapman  
Administrative Trademark Judges,  
Trademark Trial and Appeal Board